

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 9326
)
Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare (DSW) denying him General Assistance (GA) benefits. The issue is whether the petitioner is able-bodied, and, if so, whether he has two or more "employment barriers" or faces a "catastrophic situation" as those terms are defined in the pertinent regulations. At an "expedited" hearing¹ in this matter held on August 4, 1989, the hearing officer orally affirmed the department's decision.

FINDINGS OF FACT

The petitioner is a young single man who states he recently arrived in Vermont (from California) to attend college. A few days before the hearing he fell and injured his back. A statement signed by an emergency-room physician states that the petitioner should not work for "five days". The petitioner states he is now without income and housing. He was recently granted food stamps.

When the petitioner was read the department's list of "employment barriers" (see infra), he admitted that the only one he met was that he had not held a job or been a full-time student for six-consecutive months within the last five years.

He does not allege that he was evicted from his last residence (which he states was in California).

ORDER

The department's decision is affirmed.

REASONS

W.A.M. § 2600 B provides:

Except as specifically provided in 2602 (catastrophic situations), General Assistance shall be granted to applicants who have no minor dependents included in their application only if they:

1. Are not able-bodied (see 2601 p.1) and meet the conditions of C (1-6) below,
2. Are able-bodied, have two or more of the employment barriers as defined in 2607.1(c), and meet the conditions of C (1-6) below.

Section 2601 of the regulations defines "able-bodied" as follows:

Able-bodied - means a person who has no physical or mental impairment which prevents him from working. A person shall be considered as not able-bodied if he is currently unable to work due to physical or emotional problems which have or presumably will last at least 30 days. This eligibility factor must be verified by a signed statement from a physician or licensed practitioner whose services would be covered under Medicaid were the GA applicant a Medicaid recipient.

The employment barriers as defined in 2607.1(c)

(referred to in § 2600 B(2), supra) are:

- c. Individuals who have two or more of the following employment barriers are exempted from the 20-hour job seeking requirement but remain subject to all other requirements in this section:
 1. Age 40 or over;
 2. Eighth-grade education or less;

3. Inability to read or write;
4. Lives 10 or more miles from a town of 2500 or more and has no available transportation, and cannot reasonably be expected to relocate within 30 days;
5. Has not for six consecutive months or more in the last five years been either employed by an employer or been a full-time student;
6. Released within 6 months from a mental health institution or hospital unit;
7. Participating in a state or federally funded drug or alcohol treatment program.

"Catastrophic situations" as defined by § 2602 are death of a spouse or minor dependent child, a court-ordered or constructive eviction, a natural disaster, or an emergency medical need. The petitioner has experienced none of these.

As noted above, the petitioner has been certified as unable to work for only 5--not 30--days, and he does not allege, nor does it appear, that he meets any of the barriers listed in § 2607.1(c) (supra) except No. 5. Since the petitioner must be considered "able-bodied", and because he does not have the requisite two or more "employment barriers", he is not eligible for GA within the meaning of the above regulations. The hearing officer and the board are bound by law to affirm decisions of the department that are in accord with the pertinent law and regulations. 3

V.S.A. § 3091(d) and Fair Hearing Rule No. 19.

FOOTNOTES

¹See Procedures Manual § P 2610-D.

#